

AMENDED IN SENATE MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 FIRST EXTRAORDINARY SESSION

## **Senate Constitutional Amendment**

**No. 2**

**Introduced by Senator McClintock**

January 13, 2005

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Senate Constitutional Amendment No. 2—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 10 and 12 of Article IV thereof, by amending Section 3 of Article XIII A thereof, by amending Sections 8 and 8.5 of Article XVI thereof, by repealing Section 20 of Article XVI thereof, and by repealing and adding Article XIII B thereof, relating to state finance.

### LEGISLATIVE COUNSEL'S DIGEST

SCA 2, as amended, McClintock. Budget process.

(1) The California Constitution provides that if, following the enactment of the Budget Bill, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the Budget Bill for that fiscal year was based, or that General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and cause the Legislature to assemble in special session. The proclamation is required to identify the nature of the fiscal emergency and be accompanied by proposed legislation to address the fiscal emergency. If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature is prohibited from acting on any other bill or adjourning for a joint

recess, until that bill or those bills have been passed and sent to the Governor.

This measure would eliminate these requirements. It would provide instead that if, following the enactment of the Budget Bill for the 2006–07 fiscal year or any subsequent fiscal year, the Governor determines, *and the Controller concurs*, that General Fund expenditures will exceed estimated General Fund revenues for that fiscal year, the Governor shall, by proclamation, reduce or eliminate one or more items of appropriation from the General Fund for that fiscal year as necessary to prevent General Fund expenditures from exceeding the estimate of General Fund revenues for that fiscal year. It would also require the Governor to suspend for that fiscal year the operation of any statute to the extent the reduction or elimination of an item of appropriation pursuant to this paragraph renders infeasible the operation of that statute. This measure would authorize the Legislature to cancel or amend any such action, pursuant to a specified procedure.

(2) The California Constitution requires the Governor to submit annually to the Legislature a budget and Budget Bill, and prescribes procedures for the Legislature to enact and send to the Governor a Budget Bill for each fiscal year.

The California Constitution mandates the establishment of a Budget Stabilization Account, into which a specified portion of General Fund revenues must be transferred, and from which certain expenditures, including expenditures to retire certain bonds, must be appropriated. Other provisions prohibit the Legislature from sending to the Governor for consideration, and the Governor from signing into law, a Budget Bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the Budget Bill's passage and the amount of any General Fund moneys transferred for the fiscal year to the Budget Stabilization Account, exceeds General Fund revenues for that fiscal year estimated as of the date of the Budget Bill's passage as set forth in the Budget Bill.

This measure would repeal the provisions relating to the Budget Stabilization Account specified above. It would instead require that if, at the time the Governor submits the budget, estimated revenues exceed recommended expenditures by less than 3%, the Governor shall recommend the sources from which additional revenues should be provided and shall indicate which expenditures are contingent upon the enactment of measures providing for additional revenue sources,

as specified. It would also amend the prescribed procedures for enactment of a budget. In particular, it would require that the Assembly and Senate each pass a Budget Bill by May 15 of each year. It would provide that, if one house does not pass a Budget Bill by that date, the Budget Bill timely adopted by the other house, if any, would be sent to the Governor for approval. If both houses fail to timely act to pass a Budget Bill, the Budget Bill submitted with the Governor's Budget would be deemed adopted, except for those items made contingent on new revenue sources. If the Assembly and Senate timely adopt different Budget Bills, a conference committee would be convened to address only the differences between the 2 bills. The measure would also provide that no action may be taken in either house on a Budget Bill lacking a 3% surplus, as described above.

This measure would provide that, if the existing June 15 constitutional deadline for the Legislature to pass a Budget Bill is not met, the Budget Bill submitted with the Governor's Budget would be deemed adopted except for those items made contingent on new revenue sources. It would also specify that, should the Governor veto the bill in its entirety, the Legislature may override the veto within 3 days. It would provide that ~~if no Budget Bill has thereafter passed the Legislature by July 1, the Budget Bill submitted with the Governor's Budget for the fiscal year beginning that day would be deemed adopted except for those items made contingent on new revenue sources~~ *the Legislature fails to override that veto, it may thereafter pass the Budget Bill without regard to the above-described deadlines.*

(3) The California Constitution provides that bills making appropriations from the General Fund of the state, except as specified, require a 2/3 vote.

This measure would exempt the Budget Bill from this vote requirement, and would require only a majority vote in each house for the passage of a Budget Bill as an urgency statute.

(4) The California Constitution requires a 2/3 vote of each house of the Legislature to pass any changes in state taxes enacted for the purpose of increasing revenue, as specified.

This measure would require a 2/3 vote of each house for any new state tax, or any increase in any state tax, regardless of the purpose of the enactment, and would define "tax" for this provision to include any charge or exaction imposed by a governmental entity, except as specified.

(5) The California Constitution prohibits the annual appropriations subject to limitation, as defined, of any entity of state or local government from exceeding the adjusted annual appropriations limit applicable to that entity. These provisions also require 50% of the excess revenues received by the state in a fiscal year and the fiscal year immediately following it to be transferred and allocated, from a fund established for that purpose, to the State School Fund, and the remaining 50% of those excess revenues to be returned by a revision of tax rates or fee schedules within the next 2 subsequent fiscal years.

This ~~bill~~ *measure* would repeal those provisions and instead apply, commencing with the 2006–07 fiscal year, a different state appropriations limit, as specified. It would require rebates of revenues collected over that limit *in a fiscal year* to California personal income tax return filers in proportion to the total amount of social security taxes paid by every filer, spouse, or dependent covered in that filing for the ~~most recent~~ taxable year *ending during that fiscal year*. It would exempt from this limitation those appropriations passed by a 4/5 vote of the Legislature for the purposes of an emergency declared by the Governor. It would also bar the Treasurer from issuing additional general obligation bonds that would cause payments on principal and interest on all general obligation bonds outstanding to exceed 5% annually of the state General Fund. It would also make conforming changes.

(6) The California Constitution provides that, whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of funds to reimburse the local government for the costs of the program or increased level of service, with specified exceptions.

This measure would repeal those provisions, and direct instead that no local government shall be required to provide any new program or higher level of service in any fiscal year, unless and until it has received funding sufficient to do so for that fiscal year.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2005–06 First
- 3 Extraordinary Session commencing on the sixth day of January
- 4 2005, two-thirds of the membership of each house concurring,

1 hereby proposes to the people of the State of California, that the  
2 Constitution of the State be amended as follows:

3 First—That Section 10 of Article IV thereof is amended to  
4 read:

5 SEC. 10. (a) Each bill passed by the Legislature shall be  
6 presented to the Governor. It becomes a statute if it is signed by  
7 the Governor. The Governor may veto it by returning it with any  
8 objections to the house of origin, which shall enter the objections  
9 in the journal and proceed to reconsider it. If each house then  
10 passes the bill by rollcall vote entered in the journal, two-thirds  
11 of the membership concurring, it becomes a statute.

12 (b) (1) Any bill, other than a bill which would establish or  
13 change boundaries of any legislative, congressional, or other  
14 election district, passed by the Legislature on or before the date  
15 the Legislature adjourns for a joint recess to reconvene in the  
16 second calendar year of the biennium of the legislative session,  
17 and in the possession of the Governor after that date, that is not  
18 returned within 30 days after that date becomes a statute.

19 (2) Any bill passed by the Legislature before September 1 of  
20 the second calendar year of the biennium of the legislative  
21 session and in the possession of the Governor on or after  
22 September 1 that is not returned on or before September 30 of  
23 that year becomes a statute.

24 (3) Any other bill presented to the Governor that is not  
25 returned within 12 days becomes a statute.

26 (4) If the Legislature by adjournment of a special session  
27 prevents the return of a bill with the veto message, the bill  
28 becomes a statute unless the Governor vetoes the bill within 12  
29 days after it is presented by depositing it and the veto message in  
30 the office of the Secretary of State.

31 (5) If the 12th day of the period within which the Governor is  
32 required to perform an act pursuant to paragraph (3) or (4) of this  
33 subdivision is a Saturday, Sunday, or holiday, the period is  
34 extended to the next day that is not a Saturday, Sunday, or  
35 holiday.

36 (c) Any bill introduced during the first year of the biennium of  
37 the legislative session that has not been passed by the house of  
38 origin by January 31 of the second calendar year of the biennium  
39 may no longer be acted on by the house. No bill may be passed  
40 by either house on or after September 1 of an even-numbered

1 year except statutes calling elections, statutes providing for tax  
2 levies or appropriations for the usual current expenses of the  
3 State, and urgency statutes, and bills passed after being vetoed by  
4 the Governor.

5 (d) The Legislature may not present any bill to the Governor  
6 after November 15 of the second calendar year of the biennium  
7 of the legislative session.

8 (e) The Governor may reduce or eliminate one or more items  
9 of appropriation while approving other portions of a bill. The  
10 Governor shall append to the bill a statement of the items  
11 reduced or eliminated with the reasons for the action. The  
12 Governor shall transmit to the house originating the bill a copy of  
13 the statement and reasons. Items reduced or eliminated shall be  
14 separately reconsidered and may be passed over the Governor's  
15 veto in the same manner as bills.

16 (f) (1) If, following the enactment of the budget bill for the  
17 2006–07 fiscal year or any subsequent fiscal year, the Governor  
18 determines, *and the Controller concurs*, that, for that fiscal year,  
19 General Fund expenditures will exceed estimated General Fund  
20 revenues, the Governor shall, by proclamation, reduce or  
21 eliminate one or more items of appropriation from the General  
22 Fund for that fiscal year as necessary to prevent General Fund  
23 expenditures from exceeding the estimate of General Fund  
24 revenues for that fiscal year. The Governor also shall suspend for  
25 that fiscal year the operation of any statute to the extent the  
26 reduction or elimination of an item of appropriation pursuant to  
27 this paragraph renders infeasible the operation of that statute.

28 (2) The Legislature may cancel or amend an action taken by  
29 the Governor to reduce or eliminate an item of appropriation or  
30 to suspend the operation of a statute, by a resolution passed in  
31 each house by rollcall vote entered ~~into~~ *in* the journal, two-thirds  
32 of the membership concurring, within 12 days following the  
33 Governor's action.

34 Second—That Section 12 of Article IV thereof is amended to  
35 read:

36 SEC. 12. (a) Within the first 10 days of each calendar year,  
37 the Governor shall submit to the Legislature, with an explanatory  
38 message, a budget for the ensuing fiscal year containing itemized  
39 statements for recommended state expenditures and estimated  
40 state revenues. If General Fund revenues, as estimated by the

1 Governor, exceed recommended General Fund expenditures by  
2 less than 3 percent, the Governor shall recommend sources from  
3 which additional revenues should be provided so that General  
4 Fund revenues exceed General Fund expenditures by at least 3  
5 percent, and shall indicate which expenditures shall be eliminated  
6 absent the enactment of measures providing for those additional  
7 revenue sources.

8 (b) As used in this article, “revenues” includes the proceeds of  
9 all taxes and fees and the estimated balance of those proceeds  
10 remaining from the prior fiscal year, but does not include bond  
11 proceeds.

12 (c) The Governor and the Governor-elect may require a state  
13 agency, officer, or employee to furnish whatever information is  
14 deemed necessary to prepare the budget.

15 (d) (1) The budget shall be accompanied by a budget bill  
16 itemizing recommended expenditures.

17 (2) The budget bill shall be introduced immediately in each  
18 house by the persons chairing the committees that consider the  
19 budget.

20 (3) Each house shall pass the budget bill introduced in that  
21 house by midnight on May 15 of each year.

22 (4) If one house fails to pass the budget bill introduced in that  
23 house by midnight on May 15, no further action shall be taken on  
24 the budget bill in that house, and the budget bill passed by the  
25 other house, if any, shall be deemed passed by the Legislature for  
26 purposes of this Constitution, and shall be presented to the  
27 Governor.

28 (5) If both houses fail to pass the budget bill introduced in  
29 that house by midnight on May 15, the budget bill accompanying  
30 the Governor’s Budget as submitted to the Legislature shall be  
31 deemed passed by the Legislature for purposes of this  
32 Constitution, excluding any expenditures identified in that  
33 submitted budget bill as being contingent upon the enactment of  
34 measures providing for additional sources of revenue.

35 (6) If the budget bills passed by each house by May 15 differ,  
36 a conference committee shall be convened solely to reconcile the  
37 differences between the two versions of the budget bill.

38 (7) No vote shall be taken on the passage of the budget bill in  
39 either house unless the General Fund revenues for that fiscal year  
40 estimated by the Legislature, which estimate shall be set forth in

1 that budget bill, exceed proposed General Fund expenditures for  
2 that fiscal year by at least 3 percent.

3 (8) The Legislature shall pass the budget bill by midnight on  
4 June 15 of each year.

5 (9) If the Legislature fails to pass the budget bill by midnight  
6 on June 15, the budget bill accompanying the Governor's Budget  
7 as submitted to the Legislature shall be deemed passed by the  
8 Legislature for purposes of this Constitution, excluding any  
9 expenditures identified in that submitted budget bill as being  
10 contingent upon the enactment of measures providing for  
11 additional sources of revenue.

12 (10) If the Governor vetoes the budget bill in its entirety, the  
13 Legislature may thereupon pass the budget bill by rollcall vote  
14 entered in the journal, two-thirds of the membership concurring,  
15 within three days. If the Legislature fails to so override that veto,  
16 it may pass a subsequent budget bill without regard to the  
17 deadlines set forth in this subdivision, ~~except that if no budget~~  
18 ~~bill is passed by the Legislature and signed by the Governor~~  
19 ~~before July 1, the budget bill accompanying the Governor's~~  
20 ~~Budget as submitted to the Legislature for the fiscal year~~  
21 ~~beginning that day shall be deemed passed by the Legislature for~~  
22 ~~purposes of this Constitution, excluding any expenditures~~  
23 ~~identified in that submitted budget bill as being contingent upon~~  
24 ~~the enactment of measures providing for additional sources of~~  
25 ~~revenue.~~

26 (11) Until the budget bill has been enacted, the Legislature  
27 shall not send to the Governor for consideration any bill  
28 appropriating funds for expenditure during the fiscal year for  
29 which the budget bill is to be enacted, except emergency bills  
30 recommended by the Governor or appropriations for the salaries  
31 and expenses of the Legislature.

32 (e) No bill except the budget bill may contain more than one  
33 item of appropriation, and that for one certain, expressed  
34 purpose. Appropriations from the General Fund of the State,  
35 except appropriations for the public schools and appropriations  
36 made in the budget bill, are void unless passed in each house by  
37 rollcall vote entered in the journal, two-thirds of the membership  
38 concurring. Notwithstanding subdivision (d) of Section 8, the  
39 budget bill may be passed as an urgency statute if, by rollcall



1 vote entered ~~into~~ *in* the journal, a majority of the membership of  
2 each house concurs.

3 (f) The Legislature may control the submission, approval, and  
4 enforcement of budgets and the filing of claims for all state  
5 agencies.

6 Third—That Section 3 of Article XIII A thereof is amended to  
7 read:

8 ~~Section 3.~~ *SEC. 3.*

9 (a) An increase in any state tax, whether by increased rates or  
10 changes in methods of computation, or any new state tax must be  
11 imposed by an act passed by not less than two-thirds of all  
12 Members elected to each of the two houses of the Legislature,  
13 except that no new ad valorem taxes on real property, or sales or  
14 transaction taxes on the sales of real property may be imposed.

15 (b) For purposes of this section, a “tax” is any charge or  
16 exaction imposed by any governmental entity except for a charge  
17 to provide for specific goods or services requested by the payer  
18 as to which all of the following apply:

19 (1) The proceeds of the charge are used solely for the  
20 provision of the requested goods or services.

21 (2) The charge does not exceed the actual proportionate cost of  
22 providing the goods or services.

23 (3) Acceptance of the goods or services is not a condition of  
24 any action by a state agency.

25 Fourth—That Article XIII B thereof is repealed.

26 Fifth—That Article XIII B is added thereto, to read:

27  
28 ARTICLE XIII B

29 GOVERNMENT SPENDING LIMITATION

30  
31 SECTION 1. (a) For the 2006–07 fiscal year, appropriations  
32 made from the General Fund shall not exceed \$87,018,385,000,  
33 and the aggregate amount of appropriations made from all state  
34 funds shall not exceed \$101,060,091,000.

35 (b) The appropriations limit for each subsequent fiscal year  
36 shall be determined by adjusting the appropriations limit for the  
37 preceding fiscal year by a percentage equal to the sum of the  
38 following:

39 (1) The percentage change in the population of the State from  
40 the preceding fiscal year.

(2) The percentage change from the preceding fiscal year in the Consumer Price Index for the United States as reported by the United States Department of Labor, or the successor federal agency.

(c) Appropriations for the 2005–06 fiscal year shall be governed by the predecessor to this article.

SEC. 2. (a) All revenues collected in a fiscal year that exceed the amount that may be appropriated by the State for that fiscal year under this article shall be returned within ~~the next 18 months~~ *following the conclusion of that* fiscal year by a rebate to California personal income tax return filers in proportion to the total amount of social security taxes paid by every filer, spouse, or dependent covered in that filing for the ~~most recent taxable~~ *taxable year ending on December 31 of that* fiscal year.

(b) Notwithstanding subdivision (a), excess revenues may be retained from year to year until the first fiscal year for which the aggregate amount of excess revenues exceeds \$100,000,000, whereupon the requirements of subdivision (a) shall apply.

SEC. 3. Nothing in this article shall be construed to impair the ability of the State to meet its obligations with respect to existing or future bonded indebtedness.

SEC. 4. The Treasurer shall not cause to be issued general obligation bonds in an amount that would require more than 5 percent of the state General Fund annually to pay principal and interest of all outstanding general obligation debts.

SEC. 5. No local government shall be required to provide any new program or higher level of service in any fiscal year, unless and until it has received funding sufficient to do so for that fiscal year.

SEC. 6. In the event an emergency is declared by the Governor, appropriations approved by a four-fifths vote of the Legislature to an emergency account for expenditures relating to that emergency shall not constitute appropriations subject to limitation.

SEC. 7. As used in this article, “appropriation” means any authorization to expend the proceeds of taxes or fees levied by or for the State, exclusive of refunds of taxes and expenditures of the proceeds of bonds.

Sixth—That Section 8 of Article XVI thereof is amended to read:

SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.

(b) Commencing with the 1990–91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in the 1986–87 fiscal year.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, adjusted for changes in enrollment and adjusted for the percentage change in California per capita personal income from the preceding year. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus ~~one-half~~ *one-half* of one percent.

(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior fiscal year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus ~~one-half~~ *one-half* of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or (3) of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (g), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys that would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys that would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in California per capita personal income from the preceding year, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, “changes in enrollment” shall be measured by the percentage change in average daily

1 attendance. However, in any fiscal year, there shall be no  
2 adjustment for decreases in enrollment between the prior fiscal  
3 year and the current fiscal year unless there have been decreases  
4 in enrollment between the second prior fiscal year and the prior  
5 fiscal year and between the third prior fiscal year and the second  
6 prior fiscal year.

7 (g) Subparagraph (B) of paragraph (3) of subdivision (b) may  
8 be suspended for one year only when made part of or included  
9 within any bill enacted pursuant to Section 12 of Article IV. All  
10 other provisions of subdivision (b) may be suspended for one  
11 year by the enactment of an urgency statute pursuant to Section 8  
12 of Article IV, provided that the urgency statute may not be made  
13 part of or included within any bill enacted pursuant to Section 12  
14 of Article IV.

15 Seventh—That Section 8.5 of Article XVI thereof is amended  
16 to read:

17 SEC. 8.5. Any school district maintaining an elementary or  
18 secondary school shall adopt a School Accountability Report  
19 Card for each school.

20 Eighth—That Section 20 of Article XVI thereof is repealed.

O